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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT; CITY
OF BURBANK; AND DOES 1 THROUGH
100, INCLUSIVE.

Defendants.

CASE NO.: BC 414 602

Complaint Filed: May 28, 2009

Assigned to: Hon. Joanne B. O'Donnell, Judge

**DEFENDANT'S RESPONSE TO
PLAINTIFF CHILDS'S SEPARATE
STATEMENT OF DISPUTED MATERIAL
FACTS RE MOTION FOR SUMMARY
JUDGMENT**

Date: March 18, 2010

Time: 9:00 a.m.

Dept: 37

Trial Date: August 25, 2010

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Defendant submits this Response to plaintiff Childs's separate statement of disputed and undisputed material facts.

ISSUE NO. 1

PLAINTIFF'S FIRST CAUSE OF ACTION FOR DISCRIMINATION IN VIOLATION OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT ("FEHA") IS MERITLESS.

Moving Party's Undisputed Material Facts and Supporting Evidence

Opposing Party's Reply

1. Jamal Childs was hired as a Burbank police recruit on September 22, 2003. On February 12, 2004, Childs became a Burbank police officer. Childs was a probationary police officer from February 12, 2004 to February 12, 2005, at which time he became a permanent Burbank police officer. (Childs depo. p. 12:22-23, First Amended Complaint ("FAC") p. 27:26-p. 28:8, ¶ 68; Stehr decl. p. 1:8-11, ¶¶ 3-5.)

Undisputed.

2. Childs is African-American. (Exh. A, FAC p. 3:3-7, ¶ 5.)

Undisputed.

3. Childs consistently received positive performance evaluations. For the appraisal period of January 14, 2005 to May 4, 2005, Childs received a standard performance evaluation. For the appraisal period of May 5, 2005 to August 24, 2005, Childs received a standard performance evaluation. For the appraisal period of August 25, 2005 to January 11, 2006, Childs received an above standard performance evaluation. For the appraisal period of January 12, 2006 to May 3, 2006, Childs received an above standard performance evaluation. For the appraisal period of May 4, 2006 to August 23, 2006, Childs

Undisputed.

1 received an above standard performance evaluation.
2 For the appraisal period of August 24, 2006, to
3 January 10, 2007, Childs received an above standard
4 performance evaluation. For the appraisal period of
5 January 11, 2007 to May 2, 2007, Childs received an
6 above standard performance evaluation. For the
7 appraisal period of May 3, 2007 to August 22, 2007,
8 Childs received an above standard performance
9 evaluation. For the appraisal period of August 23,
10 2007 to January 9, 2008, Childs received an above
11 standard performance evaluation; his evaluation was
12 completed by Sgt. Ed Ruiz and approved by Darin
13 Ryburn. For the appraisal period of January 10, 2008
14 to April 30, 2008, Childs received an outstanding
15 performance evaluation. For the appraisal period of
16 May 1, 2008 to August 20, 2008, Childs received an
17 above standard evaluation. For the appraisal period of
18 August 10, 2008 to March 1, 2009, Childs received an
19 outstanding evaluation. (Stehr decl. p. 1:20 - p. 2:8,
20 ¶ 8.)
21

22 4. Childs never applied for a promotion. (Childs
23 depo. p. 127:10-19.)
24

Undisputed.

25 5. On or about August 6, 2008, Jamal Childs
26 applied for the position of School Resource officer
27 ("SRO"). Two additional Burbank police officers
28 applied for the position of School Resource officer; of

Undisputed.

1 these both are Caucasian officers. After consideration
2 of each officer's training, experience, and
3 performance, Jamal Childs was ranked first. (Childs
4 depo. p. 12:24- p. 13:16; p. 58:11-15; p. 127:10-19; p.
5 130:16-19; Stehr decl. p. 1: 15, ¶ 6.)

6
7 6. Jamal Childs was assigned to the Juvenile
8 Detective Bureau as an SRO on August 21, 2008, and
9 has held that position ever since. (Childs depo. p.
10 12:24- p. 13:16; p. 58:11-15; p. 127:10-19; p. 130:16-
11 19; Stehr decl. p. 1:15-17, ¶ 6.)

Undisputed.

12
13 7. Jamal Childs has not applied for promotion or
14 advancement since his assignment as a School
15 Resource Officer. (Stehr decl. p. 1:18-19, ¶ 7.)

Undisputed.

16
17 8. Childs did not view appointment to the special
18 assignment of SRO as discrimination. (Childs depo.
19 p. 13:7-14:23, 16:1-4.)

Undisputed.

20
21 9. In February, 2009, the police department sent
22 Childs to DARE officer training for two weeks.
23 (Childs depo. p. 164:9-p. 165:7.)

Undisputed.

24
25 10. In February, 2009, the police department sent
26 Childs to a 40-hour child abuse investigation school
27 training. (Childs depo. p. 165:8-166:4.)

Undisputed.

- 1 11. Childs currently reports to Sgt. Claudio Losacco. On March 9, 2009, Sgt. Claudio Losacco
2 evaluated Childs as an SRO and gave him an
3 outstanding evaluation for the period of August 2008
4 to March 1, 2009. (Childs depo. p. 16:5-20.)
5
6
- 7 12. Childs did not view Sgt. Losacco's evaluation as discrimination. (Childs depo. p. 16:5-20.)
8
9
- 10 13. No one has ever attempted to demote Childs, improperly discipline him, place him on
11 administrative leave, remove him from a position of
12 authority, give him a demeaning job, or terminate his
13 employment. (Childs depo. p. 154: 22- 155:21.)
14
15
- 16 14. Between August 24, 2004, and July 11, 2008, Childs was the subject of ten citizen complaints and
17 one administrative complaint for failing to report his
18 use of force. During the appraisal period of August
19 23, 2007 to January 9, 2008, during which time Darin
20 Ryburn was his supervisor, Childs was the subject of
21 three citizen complaints. (Childs depo. p. 19:1-11;
22 Stehr decl. p. 2:9-15, ¶¶ 8-9; Ryburn decl., p. 8:8-13,
23 ¶ 3.)
24
25
- 26 15. Only one internal investigation ("IA") – initiated in 2005 – was sustained against Childs. He
27 received a written reprimand on March 31, 2006.
28
- Undisputed.**
- Undisputed.**
- Undisputed.**
- Undisputed.**

1 (Childs depo. p. 20:3-10; Stehr decl. p. 2:10-13, ¶ 9.)

2
3 16. Childs accepted the written reprimand and
4 waived his right to appeal because he felt the
5 department was correct in reprimanding him and he
6 did not feel the outcome was discriminatory. (Childs
7 depo. p. 20:3-13.)

Undisputed.

8
9 17. On May 27, 2009, Childs filed a DFEH
10 complaint for discrimination, harassment, and
11 retaliation against the City of Burbank and DFEH
12 complaints for discrimination, harassment, and
13 retaliation against the following nine (9) employees of
14 the City: (A) Captain Pat Lynch, (B) Det. Mike
15 Parrinello, (C) Lt. Jamie "JJ" Puglisi, (D) Sgt. Kerry
16 Schilf, (E) Sgt. Dan Yadon, (F) Sgt. Kelly Frank, (G)
17 Sgt. Darin Ryburn, (H) Officer Aaron Kendrick, and
18 (I) Chief Tim Stehr. (Exh. A, FAC p. 28:21-p. 29:1,
19 ¶ 72, FAC exh. I, Childs depo. p. 106: 23- p. 108:5, p.
20 125:15- p. 126:24, exh. 114.)

Undisputed.

21
22 **A. Captain Pat Lynch**

23 18. Childs never heard Captain Pat Lynch make
24 any discriminatory or harassing comments, was never
25 told Captain Pat Lynch made any discriminatory,
26 harassing, racial or sexual comments, and does not
27 believe Captain Pat Lynch ever did anything that was
28 discriminatory toward Childs. (Childs depo. p.

Disputed in part, undisputed in part. Witness' "belief" concerning Captain Lynch is speculation, and it is disputed on that basis. Undisputed as to the remainder.

26:19-p.27:4; p. 29:21-24; p. 36:20-p. 37:1, p. 93:11-13.)

RESPONSE: Undisputed; argument and objections are not opposing evidence. Childs cites no opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

19. Captain Lynch has never done anything but treat Childs professionally. (Childs depo. p. p. 93:11-13.)

Disputed. This statement is speculation, the witness lacks foundation, and it is disputed on this basis.

RESPONSE: Undisputed; argument and objections are not opposing evidence. Childs cites no opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

B. Detective Mike Parrinello

20. Childs never heard Detective Mike Parrinello make any discriminatory, racist, or harassing comments, was never told that Detective Mike Parrinello made any discriminatory, harassing, racial or sexual comments, and does not believe Detective Mike Parrinello ever did anything that was discriminatory toward Childs. (Childs depo. p. 25:25-p. 26:18, p. 86:7-p. 87:9; p. 29:17-20; p. 36:10-19.)

Disputed in part, undisputed in part. Witness' "belief" concerning Detective Parrinello is speculation, and it is disputed on that basis. Undisputed as to the remainder.

RESPONSE: Undisputed; argument and objections are not opposing evidence. Childs cites no opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

1
2 **C. Lieutenant Puglisi**

3 21. Childs never heard Lieutenant Puglisi make any
4 discriminatory or harassing comments, was never told
5 Lieutenant Puglisi made any discriminatory, harassing,
6 racial or sexual comments, and does not believe
7 Lieutenant Puglisi ever did anything that was
8 discriminatory toward Childs. (Childs depo. p. 34:19-
9 p.35:9; p. 35:35:15-20; p. 37:19 - p. 38:1, p. 95:21-23.)

**Disputed in part, undisputed in
part. Witness' "belief" concerning
Lieutenant Puglisi is speculation,
and it is disputed on that basis.
Undisputed as to the remainder.**

10
11
12 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
13 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
14 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

15
16 22. Lt. Puglisi has never done anything but
17 treat Childs professionally. (Childs depo. p.
18 95:21-23.)

**Disputed. This statement is
speculation, the witness lacks
foundation, and it is disputed on this
basis.**

19
20
21 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
22 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
23 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

24
25 **D. Sgt. Kerry Schilf**

26 23. Childs never heard Officer Kerry Schilf make
27 any discriminatory or harassing comments and was never
28 told that Officer Schilf made any discriminatory,

**Disputed in part, undisputed in
part. Witness' "belief" concerning
Officer Schilf is speculation, and it is**

1 harassing, racial or sexual comments. (Childs depo. p.
2 35:21-p.36:5; p. 35:21-p.36:8; p. 96:10-12.)

**disputed on that basis. See Fact 111,
above (Officer Schilf's nickname in
the Burbank Police Department is
"Hitler.") Undisputed as to the
remainder.**

7 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
8 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
9 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

11 24. Officer Schilf has never done anything
12 but treat Childs professionally. (Childs depo. p.
13 96:10-12.)

**Disputed. This statement is
speculation, the witness lacks
foundation, and it is disputed on this
basis.**

16 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
17 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
18 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

20 **E. Sgt. Dan Yadon**

21 25. Childs never heard Sgt. Dan Yadon make any
22 discriminatory, harassing, or racially biased comments,
23 and does not believe Sgt. Yadon ever did anything that
24 was discriminatory toward Childs. (Childs depo. p.
25 23:14-17, 24:21-24; p. 37:11-18, p. 94:23- p. 95:10.)

**Disputed in part, undisputed in
part. Witness' "belief" concerning
Sgt. Yadon is speculation, and it is
disputed on that basis. Undisputed
as to the remainder.**

27 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
28 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*

1 Corp. (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

2
3 26. Sgt. Yadon has never done anything but
4 treat Childs professionally. (Childs depo. p.
5 95:8-9.)

**Disputed. This statement is
speculation, the witness lacks
foundation, and it is disputed on this
basis.**

6
7
8 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
9 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
10 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

11
12 **F. Sgt. Kelly Frank**

13 27. Childs never heard Sgt. Kelly Frank make any
14 discriminatory, harassing, racial or sexual comments,
15 was never told Sgt. Kelly Frank made any
16 discriminatory, harassing, racial or sexual comments,
17 and does not believe Sgt. Kelly Frank ever did anything
18 that was discriminatory toward him. (Childs depo. p.
19 32:5-11; p. 34:12-18; p. 37:2-10, p. 94:20-22.)

**Disputed in part, undisputed in
part. Witness' "belief" concerning
Sgt. Frank is speculation, and it is
disputed on that basis. Undisputed
as to the remainder.**

20
21 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
22 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
23 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

24 28. Sgt. Kelly Frank has never done
25 anything but treat Childs professionally.
26 (Childs depo. p. p. 94:20-22.)

**Disputed. This statement is
speculation, the witness lacks
foundation, and it is disputed on
this basis.**

1 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
2 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
3 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

4
5 29. Officer Karagiosian told Childs he heard
6 different statements about Armenians, including
7 Sgt. Frank asking Karagiosian about putting a
8 kid in Sean Johns, and Karagiosian seeing
9 writings about Armenians on a dry erase board
10 on the upper level, but Childs did not see the
11 comments on the board, and was not told they
12 were part of a murder investigation in which the
13 victim was Armenian, the murderer was
14 Armenian, and the witnesses were Armenian.
15 (Childs depo. p. 32:12-23, 152:6- p. 153:19.)
16

**Disputed, assumes facts not in
evidence that “the (whiteboard) was
part of a murder investigation, etc.”
Lacks foundation and speculation.
Undisputed as to the rest.**

17 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
18 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
19 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.
20

21 **G. Sgt. Darin Ryburn**

22 30. Childs never heard Sgt. Darin Ryburn make any
23 discriminatory, harassing, racial or sexual comments
24 and has no recollection of Darin Ryburn writing him up,
25 giving him a negative review, or imposing any discipline
26 on him. (Childs depo. p. 42:11- p. 43:3; p. 49:9-17, p.
27 55:14-20.)
28

Disputed. See facts 156-158, above.

1 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
2 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
3 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

4
5 31. Childs testified as to Darin Ryburn that

**Undisputed, as to subsections a.-g. Disputed
as to subsections h. and i. Speculation,
foundation, and no evidence exists to support
these facts.**

6 a. Childs was bothered during his first
7 year on the police force in 2004-2005 when Sgt.
8 Ryburn asked Childs if his wife was Caucasian
9 and when Childs said yes, Ryburn purportedly
10 rolled his eyes and made a face as if he were
11 disgusted; Childs did not see him make a face
12 before that. (Childs depo. p. 38:22- p. 40:13;
13 p. 133:23- p. 134:18; Exh. A, FAC p. 27:27-p.
14 28:7, ¶ 70.)

15 b. Childs has not had conversations
16 with Sgt. Ryburn since that time; Childs does
17 not talk to Ryburn. (Childs depo. p. 134:19- p.
18 135:17.)

19 c. Before August of 2008, Childs was
20 told by Officer Jason Embleton that Darin
21 Ryburn purportedly said “I guess it’s true, once
22 you go black, you never go back” or something
23 to that effect. (Childs depo. p. 50:2-9.)

24 d. Sgt. Ryburn (Childs’ supervisor)
25 followed Childs when he was on patrol and
26 instead of rolling by as a safety check when
27 Childs made a traffic stop, Sgt. Ryburn would
28 park a half block away and just watch. (Childs

1 depo. p. 42:4- p. 44:4.)

2 e. Childs speculates that Sgt. Ryburn
3 followed him when he was on patrol because
4 Childs is African-American and that Ryburn
5 had an issue with Childs having a White wife.
6 (Childs depo. p. 44:21-23, p. 46:8- p. 47:13; p.
7 42:4- p. 44:19; Exh. A, FAC p. 27:27-p. 28:7,
8 ¶ 70.)

9 f. Childs admits other officers,
10 including several Caucasian officers, had the
11 same complaint about Darin Ryburn; Ryburn
12 was responsible for monitoring all officers he
13 supervised and he did not single out Childs
14 based on race. (Childs depo. p. 44:21-23, p.
15 46:8- p. 47:13; p. 42:4- p. 44:19; Exh. A, FAC
16 p. 27:27-p. 28:7, ¶ 70; Ryburn decl. p. 8:8-13,
17 ¶ 3.)

18 g. Sgt. Ryburn is someone who “likes
19 to pick certain officers to kind of nitpick about
20 certain things”, “officers who went out and
21 made a lot of arrests and got complaints... if you
22 make a lot of arrests, you’re going to get
23 complaints. And he seemed to have an issue
24 with getting citizen complaints.” (Childs depo.
25 p. 51:22- p. 52:16.)

26 h. Sgt. Ryburn also focused this same
27 type of attention on Officers Jason Embleton,
28 John Embleton (both Caucasians), and Neil

1 Gunn (half Caucasian), and did not single out
2 Childs. (Childs depo. p. 44:8-12, p. 52:2-8;
3 Ryburn decl. p. 8:8-13, ¶ 3.)

4 i. Aside from Sgt. Ryburn following
5 him and other officers, Childs does not believe
6 anyone else scrutinized his work more closely
7 than Caucasian officers and was not aware of
8 anything else Sgt. Ryburn did that was
9 discriminatory or harassing. (Childs depo. p.
10 155:22- 156:16; p. 47:23-p. 48:3.)

11
12 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
13 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
14 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

15
16 **H. Aaron Kendrick**

17 32. Childs did not hear Officer Aaron Kendrick make **Undisputed.**
18 any racial remarks about African Americans. (Childs
19 depo. p. 62:15-17, p. 97:19-22.)

20
21 33. Officer Kendrick has never done anything but **Disputed. See fact 161, above.**
22 treat Childs professionally. (Childs depo. p. 97:19-21.)

23
24 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
25 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
26 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

27
28 34. Aaron Kendrick became a field training **Undisputed**

1 officer (“FTO”) in February of 2007. (Stehr
2 decl. p. 4:6-7, ¶ 33.) .

3
4 35. Childs asserted as to Officer Kendrick
5 that

6 a. Before Aaron Kendrick became an
7 FTO in February of 2007 Childs heard Aaron
8 Kendrick refer to Officer Karagiosian as a
9 “towel” about five times; Childs did not hear
10 this comment from Aaron Kendrick at work,
11 but on the basketball team after basketball
12 games. (Childs depo. p. 61:21- p. 62:11; p.
13 62:18- p. 63:16, p. 64:1-19; Stehr decl. p. 4:6-7,
14 ¶ 33.)

15 b. Childs stopped playing basketball.
16 (Childs depo. p. 184:4-8.)

17 c. Childs did not report Kendrick’s
18 comments about Karagiosian to anyone. (Childs
19 depo. p. 63:20-25.)

20 d. Around 2005 or 2006, before Childs
21 met with investigator Irma Rodriguez Moisa to
22 report about events he believed were
23 discriminatory, Childs was told by Officer
24 Elfego Rodriguez that when he was in the lower
25 report writing room on the computer that
26 Officer Kendrick made a comment that
27 Mexicans only came to Burbank to ruin the city.
28 (Childs depo. p. 73:23- p. 75:11; p. 183:11-19.)

- a. **Undisputed**
- b. **Undisputed**
- c. **Disputed. See facts 113 and 209 above**
- d. **Undisputed**
- e. **Undisputed**
- f. **Undisputed**
- g. **Undisputed**
- h. **Undisputed.**

1 e. In about February, 2007, when
2 Officer Karagiosian and Officer Kendrick
3 became field training officers, Officer
4 Karagiosian told Childs that he had an
5 argument with Officer Kendrick and said to
6 Kendrick "I'm going to kill you" or words to
7 that effect. Childs did not report Karagiosian's
8 comment to anyone. (Childs depo. p. 76:7 - p.
9 78:5.)

10 f. Childs did not hear Officer
11 Karagiosian make any comments he considered
12 to be racial or harassing, but Childs could not
13 think of any circumstance in which an officer
14 threatened to kill a fellow officer that would not
15 be harassing. (Childs depo. p. 160:9-13, p.
16 161:6-16; p. 183:20- p. 184:3.)

17 g. Childs was told around March,
18 2008, by Officers Macias and Brimway, that
19 about a year earlier, Officer Kendrick
20 purportedly made a comment during an arrest of
21 a famous rapper, Snoop Dogg, of "Why is
22 Jamal here? ... Do we need him for
23 translation?"; Childs does not know who the
24 supervisors were who he believes heard this.
25 The Snoop Dogg arrest was November 29,
26 2006. (Childs depo. p. 67:25- p. 69:21, p.
27 72:3-21; p. 104:7-23; p. 135: 18- p. 136:4; p.
28 138:7-18; Stehr decl. p. 4:10-11, ¶ 35.)

1 h. Before this lawsuit was filed in May,
2 2008, Officer Kendrick said to Childs "If I've
3 ever done anything to offend you, I apologize."
4 Childs viewed Kendrick's statement as sincere
5 and admitted at deposition as to Kendrick that
6 "we get along fine now." (Childs depo. p. 73:4-
7 14.)

8
9 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
10 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
11 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

12
13 **I. Chief Tim Stehr**

14 36. Childs never heard Chief Stehr make any racial, **Undisputed.**
15 sexist, discriminatory, or harassing comments, and was
16 never told Chief Stehr made any racial, sexist,
17 discriminatory, or harassing comments. (Childs depo.
18 p. 66:25- p. 67:8, p. 96:23 - p. 97:1; p. 67:11-17.)

19
20 37. Chief Stehr has never done anything but treat **Disputed. Speculation, foundation,**
21 Childs professionally. (Childs depo. p. 96:23- p. 97:1.) **38, 140 and 141 above.**

22
23 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
24 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
25 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

26
27 38. Childs was told around May of 2009 by **Disputed, see facts 140 and 141**
28 Lt. Rodriguez that Chief Stehr previously made **above.**

1 a comment in a November 6, 2008 management
2 meeting that “There used to be a time here
3 when it was okay to call someone a nigger, but
4 times have changed”; Childs does not attend
5 management meetings and was not present for
6 this alleged statement. (Childs depo. p. 108:3-
7 p. 109:19; p. 158:8-21; Exh. A, FAC p. 10:19-
8 22, ¶ 19 (e).)

9
10 **J. Officer Jared Cutler**

11 39. As to Officer Cutler,

a. Disputed, see Fact 161 above

12 a. In 2007, the year before Childs spoke to Irma
13 Rodriguez Moisa, Childs heard Officer Cutler say “I
14 remember when we didn’t hire people like him.” Childs
15 did not ask officer Cutler who he was talking about and
16 did not know if he was referring to someone else.
17 (Childs depo. p. 111:19- p. 113:10.)

b. Undisputed

18 b. Childs was told by Officer Brimway in 2008
19 that on one occasion when Childs walked by the lower
20 report room Officer Cutler looked up and said “Who let
21 the black guy in?” and those present thought it was
22 funny. (Childs depo. p. 114:9- p. 115:13.)

c. Undisputed

23 c. Childs heard Officer Cutler refer to
24 Armenians as “towels” at unspecified times, maybe 10
25 or 15 times, including once after a basketball game.
26 (Childs depo. p. 117:18- p. 119:1.)

27
28 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no

opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

K. Sgt. Llewellyn **Speculation, foundation, this is disputed on this basis.**
40. Childs did not think Sgt. Llewellyn did anything to discriminate against or harass him.
(Childs depo. p. 164:1-8.)

RESPONSE: Undisputed; argument and objections are not opposing evidence. Childs cites no opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

L. Sgt. Calicchio

41. Childs testified as to Sgt. Calicchio: **a. Undisputed.**

a. About two and a half to three years ago **b. Undisputed.**

(2005-2006), Childs turned in a report concerning a **c. Undisputed.**

black suspect accused of swindling a Hispanic man out of approximately \$30,000, and Sgt. Calicchio said “who in their right mind would give a fucking black guy thirty grand?” (Childs depo. p. 119:12 - p. 121:24; Exh. A, FAC p. 27:15-26, ¶ 69.)

b. The same week, Childs turned in a report to Sgt. Calicchio who was critical of the report being left in “review phase”; that was the last comment made by Sgt. Calicchio that Childs viewed as negative; nor did he remember any negative comments from anyone else made in front of his peers that were negative. (Childs depo. p. 123:10 - p.125:14; p. 132:25-p. 133:22.)

1 42. Sgt. Calicchio retired from the Burbank Police
2 Department on June 11, 2008, and currently works as a
3 investigator with the Los Angeles County District
4 Attorney's Office. Between 2005 and the retirement of
5 Sgt. Calichio, Childs has been rated no less than
6 standard, and in most cases above standard. (Stehr decl.
7 p. 4:8-9, ¶ 34 .)

Undisputed.

8
9 **The lawsuit**

10 43. At the end of 2007, Childs spoke to Officer
11 Karagiosian and Officer Rodriguez about filing a
12 lawsuit; this was before he spoke to Irma Rodriguez
13 Moisa, but Childs is not sure when he first had the
14 conversation. (Childs depo. p. 140:9-22; 142:19- p.
15 145:8.)

Undisputed.

16
17 44. On March 22, 2008, Childs spoke to investigator
18 Irma Rodriguez Moisa as part of a Burbank Police
19 Department inquiry into an anonymous complaint
20 received by the police chief alleging discrimination and
21 told her everything he knew about racial issues in the
22 department, including comments detailed above. (Childs
23 depo. p. 57:2-16, p. 112:25- p. 113:1, p. 114:14- p.
24 115:4; p. 121:24 - p. 122:3; Moisa decl., p. 5:5-6, ¶ 2.)

Undisputed.

25
26 45. After Childs spoke to Irma Rodriguez Moisa he
27 did not hear any more comments. (Childs depo. p.
28 114:3-8.)

Disputed, see facts 140 and 141.

1 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
2 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
3 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

4
5 46. On May 28, 2009, Childs filed this civil **Undisputed.**
6 action for violation of FEHA and POBRA.
7 (Exh. A, Complaint)

8
9 47. Childs has not received treatment from **Undisputed.**
10 any type of healthcare provider for any type of
11 emotional distress or trauma related to the
12 allegations of this suit; nor has he taken any
13 medication for distress, anxiety, depression, or
14 sleeplessness. (Childs depo. p. 166:13-20.)

15
16 **ISSUE NO. 2**

17 **PLAINTIFF'S SECOND CAUSE OF ACTION FOR HARASSMENT IN VIOLATION OF THE**
18 **CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT IS MERITLESS.**

19 48. Defendant City of Burbank incorporates by **Disputed. This is not evidence of a**
20 reference Undisputed Facts Nos. 1-47. **fact.**

21
22 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
23 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
24 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

25
26 49. After Childs spoke to Irma Rodriguez **Undisputed.**
27 Moisa about what he knew about racial issues
28 in the department, he also had an internal affairs

1 interview with Sergio Bent and Sgt. Misquez on
2 July 18, 2008 and October 30, 2008 and told
3 them of all of the allegations of which he was
4 aware of harassment. (Childs depo. p.127:20-
5 p. 128:18; Misquez decl., p. 6:5-6, ¶ 2.)

6
7 50. Before Childs spoke to Irma Rodriguez
8 Moisa in March of 2008 and to Sergio Bent and
9 Sgt. Misquez in July and October 2008, he had
10 never previously reported any incident about
11 racial comments to anyone – his interviews
12 with Moisa, Bent, and Misquez, were the only
13 times Childs reported any incidents of
14 harassment or discrimination to anyone in the
15 police department. (Childs depo. p. 141:21-p.
16 142:1; p. 130:20-p. 131:1.)

17
18 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
19 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
20 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

21
22 51. Childs filed a DFEH complaint on May
23 27, 2009. The applicable one year statutory
24 limitations period thus allows claims based on
25 events occurring on or after May 27, 2008.
26 (Exh. A, FAC p. 28:21-p. 29:1, ¶ 72, Exh. “I”;
27 Gov. Code, §§ 12960(d).)

**Disputed. See facts 113, 116 and
209.**

**Disputed. See Memorandum of
Points and Authorities in
Opposition, Section VI.
CONTINUING VIOLATION
RULE, Page 22, Line 22.**

1 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
2 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
3 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed. The continuing violation doctrine
4 is inapplicable – plaintiff concedes the offensive conduct stopped more than one year before he filed
5 a DFEH complaint, creating no continuing violation. (Undisputed Facts 44, 45.)

6
7
8 52. The few isolated incidents Childs
9 identified are for events that occurred before
10 March 22, 2008, and are barred by the statute of
11 limitation. (Gov. Code, §§ 12960(d); Exh. A,
12 FAC p. 28:21-p. 29:1, ¶ 72, FAC Exh. “I”.)
13 They are also based on gossip and were not
14 witnessed by Childs, as detailed above. (See
15 UF 29-39, above.)

**Disputed. See Memorandum of Points and
Authorities in Opposition, Section VI.
CONTINUING VIOLATION RULE, Page
22, Line 22. See also Disputed facts 110-249
above.**

16
17 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
18 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
19 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed. The continuing violation doctrine
20 is inapplicable – plaintiff concedes the offensive conduct stopped more than one year before he filed
21 a DFEH complaint, creating no continuing violation. (Undisputed Facts 44, 45.)

22 23 **ISSUE NO. 3**

24 **PLAINTIFF'S THIRD CAUSE OF ACTION FOR RETALIATION IN VIOLATION OF THE** 25 **CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT IS MERITLESS.**

26 53. Defendant City of Burbank incorporates by
27 reference Undisputed Facts Nos. 1-52.

**Disputed. This is not evidence of a
fact.**

1 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
2 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
3 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

4
5 54. Childs does not believe he suffered any **Speculation, foundation, this is**
6 retaliation after speaking to Irma Rodriguez **disputed on this basis.**
7 Moisa on March 22, 2008. (Childs depo. p.
8 58:5-10; Moisa decl., p. 5:5-6, ¶ 2.)

9
10 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
11 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
12 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

13
14 55. Childs knows of no retaliation he **Speculation, foundation, this is**
15 suffered after speaking to Sgt. Bent and Sgt. **disputed on this basis.**
16 Misquez in July and October of 2008. (Childs
17 depo. p. 128:19- p.130:15; p. 194:5-24;
18 Misquez decl., p. 6:5-6, ¶ 2.)

19
20
21 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
22 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
23 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

24
25 56. On August 21, 2008, after speaking to **Undisputed. However, Plaintiff**
26 Irma Rodriguez Moisa and after speaking to **does not believe these two facts are**
27 Sgt. Bent and Sgt. Misquez, Childs received the **related.**
28 special assignment SRO position, which was a

1 position he wanted. (Childs depo. p. 12:24- p.
2 13:16; p. 58:11-15; p. 130:16-19; Stehr decl. p.
3 1:12-17, ¶ 6.)

4
5 57. On or about May 10, 2009, Childs
6 received a copy of a Burbank Police
7 Department memo regarding an internal
8 investigation of allegations of officer
9 misconduct, assuring there would be no
10 retaliation for reports of misconduct during
11 official proceedings or as authorized by law,
12 and prohibiting informal discussions and gossip
13 about pending internal investigations. (Childs
14 dep. p. 171:20-p. 173:24, exh. 117.)

**Undisputed. However, evidence of
continuing retaliation is set forth
above in facts 216-219, below.**

15
16 **ISSUE NO. 4**

17 **PLAINTIFF'S FIFTH CAUSE OF ACTION FOR FAILURE TO PREVENT**
18 **DISCRIMINATION, HARASSMENT AND RETALIATION IN VIOLATION OF THE**
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT IS MERITLESS.

19 58. Defendant City of Burbank incorporates by
20 reference Undisputed Facts Nos. 1-57.

**Disputed. This is not evidence of a
fact.**

21
22 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
23 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
24 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

25
26 59. The City of Burbank has a written
27 policy against discrimination, harassment, and
28 retaliation, of which Childs received a copy.

Undisputed.

1 (Childs depo. p. 170:12- p. 171:12, exh 116.)

2
3 60. The City of Burbank also has a written
4 policy to prevent discrimination, harassment,
5 and retaliation, which includes reporting
6 information, of which Childs received a copy.

Undisputed.

7 (Childs depo. p. 175:21-25, p. 177:18 - 178:13,
8 exh 118.)

9
10 61. The Burbank Police Department has a
11 zero tolerance policy for racial profiling.

Disputed. See facts 110-249, below.

12 (Childs depo. p. 20:15-21:3.)

13
14 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
15 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
16 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

17
18 62. The Burbank Police Department also
19 has a zero tolerance policy for harassment and
20 discrimination towards employees within the
21 department. (Childs depo. p. 167:5- p. 168:8,
22 exh 115.)

Disputed. See facts 110-249, below.

23
24 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
25 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
26 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

27
28 63. On or about March 11, 2008, Childs

Undisputed.

1 received a copy of the Burbank Police
2 Department's written reminder of the
3 Department's Zero Tolerance Policy for
4 harassment and discrimination towards
5 employees within the department. (Childs
6 depo. p. 167:5- p. 168:8, exh 115.)

7
8 64. Childs estimates that in 2008, the police
9 department gave harassment and discrimination
10 training from three to six times. (Childs depo.
11 p. 131:2-14.)

Disputed. See Fact 225, below.

12
13 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
14 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
15 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

16
17 65. In 2005, the City of Burbank reissued its
18 Prevention against Discrimination and
19 Harassment Policy. (Stehr decl., p. 2:17-21, ¶
20 11; exh. 200.)

Undisputed.

21
22 66. In 2005, the City of Burbank gave
23 training to its employees to prevent harassment.
24 (Stehr decl., p. 2:21, ¶ 12.)

Disputed. See Fact 225, below.

25
26 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
27 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
28 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

1 67. On September 25, 2005, Childs received
2 training on sexual harassment and hostile work
3 environment. (Stehr decl., p. 2:22-23, ¶ 13 .)

Undisputed.

5 68. In 2006, the City of Burbank gave
6 training to its employees to prevent harassment.
7 (Stehr decl., p. 2:24, ¶ 14 .)

Disputed. See Fact 225, below.

9 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
10 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
11 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

13 69. In 2007, the City of Burbank gave
14 training to its employees to prevent harassment.
15 The issue was documented at roll call. (Stehr
16 decl., p. 2:25-26, ¶ 15.)

Disputed. See Fact 225, below.

18 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
19 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
20 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

22 70. In 2008, the City of Burbank gave
23 training to its employees to prevent harassment.
24 (Stehr decl., p. 2:27, ¶ 16 .)

Disputed. See Fact 225, below.

26 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
27 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
28 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

1 71. Childs estimates that in 2008, the police
2 department gave trainings to prevent
3 harassment and discrimination from three to six
4 times. (Childs depo. p. 131:2-14.)

Disputed. See Fact 225, below.

5
6 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
7 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
8 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

9
10 72. On January 31, 2008, Childs received a
11 two hour training in harassment prevention.
12 (Stehr decl., p. 2:28, ¶ 17.)

Disputed. See Fact 225, below.

13
14 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
15 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
16 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

17
18 73. On March 11, 2008, the Burbank Police
19 Department issued a written reminder of the
20 Department's Zero Tolerance Policy. (Stehr
21 decl., p. 3:6-7, ¶ 19, exh. 115.)

Undisputed.

22
23 74. On March 13, 2008, Sgt. Ryburn read
24 the Zero Tolerance Policy at roll call, which
25 Officer Childs attended. (Stehr decl., p. 3:8-9,
26 ¶ 20.)

Undisputed.

27
28 75. On March 14, 2008, the Zero Tolerance

Undisputed.

1 Policy was again read at roll call. (Stehr decl.,
2 p. 3:21, ¶ 21.)

3
4 76. On March 22, 2008, Childs met with
5 City of Burbank investigator Irma Moisa
6 pursuant to an investigation conducted into an
7 anonymous claim of discrimination. (Moisa
8 decl., p. 5:5-7, ¶ 2; Stehr decl., p. 3:1-5, ¶ 18.)

Undisputed.

9
10 77. On May 9, 2008, the City of Burbank
11 reminded all officers at roll call to not violate
12 the City's anti-harassment policy. (Stehr decl.,
13 p. 3:11-12, ¶ 22.)

Undisputed.

14
15 78. In September, 2008, the revised City of
16 Burbank Prevention of Discrimination and
17 Harassment Policy issued. (Stehr decl., p. 3:13-
18 14, ¶ 23, exh. 118.)

Undisputed.

19
20 79. In November 2008, Chief Stehr ordered
21 mandatory four hour diversity training program
22 and mandated that officers visit the Museum of
23 Tolerance. (Stehr decl., p. 3:15-17, ¶ 24.)

Undisputed.

24
25 80. In 2009, the City of Burbank gave
26 training to its employees to prevent harassment.
27 (Stehr decl., p. 3:21, ¶ 27.)

Undisputed.

1 81. On January 15, 2009, the City of **Undisputed.**
2 Burbank's Prevention of Discrimination and
3 Harassment Policy was read at roll call. (Stehr
4 decl., p. 3:23-24, ¶ 27.)
5

6 82. In 2009, Childs received a copy of the **Undisputed.**
7 police department's zero tolerance policy from
8 Sgt. Losacco. (Childs depo. p. 131:23-p.
9 132:13.)
10

11 83. On March 6, 2009, Childs attended the **Undisputed.**
12 City of Burbank's Diversity Training. (Stehr
13 decl., p. 3:24, ¶ 29.)
14

15 84. In June and July of 2009, the City of **Undisputed.**
16 Burbank conducted Museum of Tolerance
17 training. Childs attended. (Stehr decl., p. 4:3-
18 4; ¶ 32; Childs depo. p. 131:2-4.)
19

20 **ISSUE NO. 5**

21 **PLAINTIFF'S SIXTH CAUSE OF ACTION FOR VIOLATION OF THE PUBLIC SAFETY**
22 **OFFICERS PROCEDURAL BILL OF RIGHTS ("POBRA"), IS MERITLESS.**

23 85. Defendant City of Burbank incorporates by **Disputed. This is not evidence of a**
24 reference Undisputed Facts Nos. 1-86. **fact.**
25

26 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
27 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
28 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

1 86. Plaintiffs' POBRA claim alleges they
2 were retaliated against for filing complaints and
3 grievances for harassment, discrimination,
4 retaliation, and failure to discipline offending
5 officers. (Exh. A, Complaint, p. 42:24- p.
6 46:21, specifically, p. 43:4- p. 44:2, ¶ 124.)

**Disputed. Claimant's POBRA claim
includes a claim for failure to
provide access to his personnel file.
See facts 251 through 253, below.**

7
8 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
9 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
10 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

11
12 87. Before Childs spoke to Irma Rodriguez
13 Moisa in March of 2008 and to Sergio Bent and
14 Sgt. Misquez in July and October 2008, he had
15 never previously reported any incident about
16 racial comments to anyone – his interviews
17 with Moisa, Bent, and Misquez, were the only
18 times Childs reported any incidents of
19 harassment or discrimination to anyone in the
20 police department. (Childs depo. p. 141:21-p.
21 142:1; p. 130:20-p. 131:1.)

**Disputed. See facts 113, 116, 209,
210 and 211, below.**

22
23 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
24 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
25 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

26
27 88. Childs knows of no retaliation he
28 suffered after speaking to Moisa, Sgt. Bent, and

Undisputed.

1 Sgt. Misquez. (Childs depo. p. 58:5-10; p.
2 128:19- p.130:15; p. 194:5-24.)

3
4 89. On August 21, 2008, after speaking to
5 Irma Rodriguez Moisa and after speaking to
6 Sgt. Bent and Sgt. Misquez, Childs received the
7 special assignment SRO position, which was a
8 position he wanted. (Childs depo. p. 12:24- p.
9 13:16; p. 58:11-15; p. 130:16-19; Stehr decl. p.
10 1:12-17, ¶ 6.)

Undisputed.

11
12 90. Only one internal affairs investigations
13 – initiated in 2005 before Childs complained of
14 any activities in the Burbank police department
15 – was sustained against him, from which he
16 received a written reprimand on March 31,
17 2006. (Childs depo. p. 20:3-10; Stehr decl., p.
18 2:9-13, ¶ 9.)

Undisputed.

19
20 91. No one has ever attempted to demote
21 Childs, improperly discipline him, place him on
22 administrative leave, remove him from a
23 position of authority, give him a demeaning job,
24 or terminate his employment. (Childs depo. p.
25 154: 22- 155:21.)

**Speculation, foundation, disputed on
this basis.**

26
27 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
28 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*

1 Corp. (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

3 **ISSUE NO. 6**

4 **PLAINTIFF'S SEVENTH CAUSE OF ACTION FOR INJUNCTIVE RELIEF IS MERITLESS.**

5 92. Defendant City of Burbank incorporates by **Disputed. This is not evidence of a**
6 reference Undisputed Facts Nos. 1-93. **fact.**

7
8 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
9 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
10 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

12 **AFFIRMATIVE DEFENSES**

13 **ISSUE NO. 7**

14 **PLAINTIFF'S FEHA CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS.**

15 93. Defendant City of Burbank incorporates by **Disputed. This is not evidence of a**
16 reference Undisputed Facts Nos. 1-93. **fact.**

17
18 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
19 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
20 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

21
22 94. FEHA claims have a one year statute of **Disputed. See Memorandum of**
23 limitations for filing the prerequisite DFEH **Points and Authorities in**
24 complaint. (Gov. Code, §§ 12960(d).) **Opposition, Section VI.**
25 **CONTINUING VIOLATION**
26 **RULE, Page 22, Line 22.**

27
28 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no

opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed. The continuing violation doctrine is inapplicable – plaintiff concedes the offensive conduct stopped more than one year before he filed a DFEH complaint, creating no continuing violation. (Undisputed Facts 44, 45.)

95. Childs filed a DFEH complaint on May 27, 2009, which limits his FEHA claims to events occurring on or after May 27, 2008. (Exh. A, FAC p. 28:21-p. 29:1, ¶ 72, FAC Exh. “T”.)

Disputed. See Memorandum of Points and Authorities in Opposition, Section VI. CONTINUING VIOLATION RULE, Page 22, Line 22.

RESPONSE: Undisputed; argument and objections are not opposing evidence. Childs cites no opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed. The continuing violation doctrine is inapplicable – plaintiff concedes the offensive conduct stopped more than one year before he filed a DFEH complaint, creating no continuing violation. (Undisputed Facts 44, 45.)

96. Childs identified no wrongful conduct occurring on or after May 27, 2008.

Disputed. See facts 110-249, below.

RESPONSE: Undisputed; argument and objections are not opposing evidence. Childs cites no opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

ISSUE NO. 8

PLAINTIFF’S POBRA CLAIM IS BARRED BY THE GOVERNMENT TORT CLAIM LIMITATIONS PERIOD.

97. Defendant City of Burbank incorporates by

Disputed. This is not evidence of a

1 reference Undisputed Facts Nos. 1-93.

fact.

2
3 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
4 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
5 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

6
7 98. No action for money damages may be
8 brought against a public entity unless a written
9 claim has been timely presented to the entity
10 and acted upon, or relief is granted from the
11 claims requirements. (Gov. Code, §§ 905,
12 911.2, 945.4, 946.6, 954.5.)

Undisputed.

13
14 99. A government claim asserting a POBRA
15 violation must be filed within six months of the
16 wrongful action/injury. (Gov. Code, § 911.2;
17 *Lozada v. City and County of San Francisco*
18 (2006) 145 Cal.App.4th 1139, 1153
19 [Government Claims Act requirements apply to
20 POBRA claims]; *Voth v. Wasco Public Utility*
21 *Dist.* (1976) 56 Cal.App.3d 353, 356 [the six
22 month limitations period applies to all actions
23 sounding in tort].)

Undisputed.

24
25 100. On May 12, 2009, Childs filed a
26 Government Claim. (Exh. A, FAC p. 28:21-p.
27 29:1, ¶ 72, FAC exh. J.)

Undisputed.

1 101. On July 10, 2009, the City of Burbank
2 denied Childs' Government Claim, returning it.
3 (Exh. A, FAC p. 28:21-p. 29:1, ¶ 72, FAC exh.
4 J.)

Undisputed.

6 102. Childs has not alleged that he filed an
7 application to present a late claim. (FAC.)

Undisputed.

9 103. Childs' government claim does not
10 identify POBRA as a complained of wrong.
11 (Exh. A, FAC p. 28:21-p. 29:1, ¶ 72, FAC exh.
12 J.)

**Disputed. See facts 151 through
153, below.**

14 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
15 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
16 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

18 104. Because Childs filed his government
19 claim on May 12, 2009, the six month
20 limitations period restricts his POBRA claim to
21 events occurring from November 12, 2008 to
22 May 12, 2009. (Gov. Code, § 911.2)

**Disputed. See Memorandum of
Points and Authorities in
Opposition, Section VI.
CONTINUING VIOLATION
RULE, Page 22, Line 22.**

24 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
25 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
26 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed. The continuing violation doctrine
27 is inapplicable – plaintiff concedes the offensive conduct stopped more than one year before he filed
28 a DFEH complaint, creating no continuing violation. (Undisputed Facts 44, 45.)

1
2 105. Only one internal affairs investigations
3 – initiated in 2005 – was sustained against him,
4 from which he received a written reprimand on
5 March 31, 2006 (Childs depo. p. 20:3-10; Stehr
6 decl. p. 2:10-13, ¶ 9.)

**Disputed. See Memorandum of
Points and Authorities in
Opposition, Section VI.
CONTINUING VIOLATION
RULE, Page 22, Line 22.**

7
8 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
9 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
10 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed. The continuing violation doctrine
11 is inapplicable – plaintiff concedes the offensive conduct stopped more than one year before he filed
12 a DFEH complaint, creating no continuing violation. (Undisputed Facts 44, 45.)

13
14 106. He accepted the written reprimand
15 without challenge because he felt the
16 department was correct in reprimanding him
17 and he did not feel the outcome was
18 discriminatory. (Childs depo. p. 20:3-13.)

Undisputed.

19
20 107. This event is outside of the six month
21 limitations period for which Childs can assert
22 POBRA violations. (Gov. Code, ¶ 911.2.)

**(Disputed. See Memorandum of
Points and Authorities in
Opposition, Section VI.
CONTINUING VIOLATION
RULE, Page 22, Line 22.)**

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25
26 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
27 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
28 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed. The continuing violation doctrine

1 is inapplicable – plaintiff concedes the offensive conduct stopped more than one year before he filed
2 a DFEH complaint, creating no continuing violation. (Undisputed Facts 44, 45.)

3
4 108. No one has ever attempted to demote
5 Childs, improperly discipline him, place him on
6 administrative leave, remove him from a
7 position of authority, give him a demeaning job,
8 or terminate his employment. (Childs depo. p.
9 154: 22- 155:21.)

**Speculation, foundation. Disputed
on that basis.**

10
11 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
12 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
13 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

14 Undisputed; argument and objections are not opposing evidence. Childs cites no opposing evidence,
15 in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz Corp.* (2006) 144
16 Cal.App.4th 64.) This leaves the fact undisputed.

17
18 109. Childs does not believe he suffered any
19 retaliation after speaking to Irma Rodriguez
20 Moisa, Sgt. Bent, or Sgt. Misquez in March,
21 July, or October of 2008, as part of the internal
22 investigation. (Childs depo. p. 58:5-10; p.
23 128:19- p.130:15; p. 194:5-24.)

**Speculation, foundation. Disputed
on that basis.**

24
25 **RESPONSE:** Undisputed; argument and objections are not opposing evidence. Childs cites no
26 opposing evidence, in violation of California Rules of Court, rule 3.1350(f) and (h). (*Collins v. Hertz*
27 *Corp.* (2006) 144 Cal.App.4th 64.) This leaves the fact undisputed.

Defendant next responds to the “additional facts” submitted by plaintiff. Plaintiff’s “additional facts” are largely quotations from plaintiff’s counsel and deponents responding to leading questions in depositions, and consist of fragmentary statements containing conclusory opinions with no foundational information – they uniformly lack any information as to who made any offensive comments, when, where, and in what context it occurred (at work or outside of work), and any information as to the basis for deponents’ improper and conclusory opinions such as “discrimination,” “harassment,” “retaliation,” “inappropriate” “race-based” comments. As such, plaintiff’s purported “facts” recited below are not supported by the cited evidence.

ISSUE NO. 1

WHETHER DEFENDANT CITY OF BURBANK VIOLATED THE FAIR EMPLOYMENT AND HOUSING ACT.

Additional Material Facts

Defendant's Response

110. Inappropriate race-based comments about Blacks, Armenians, Hispanics and others are made by police officers on duty at the Burbank Police Department, as late as September, 2009. (Slor Deposition, Page 21, Lines 12 through 18; Slor Deposition, Page 25, Lines 13 through 18; Valento Deposition, Page 54, Line 23 through Page 55, Line 7; Valento Deposition, Page 55, Lines 9 through 15; Valento Deposition, Page 55, Lines 17 through 21. Omar Rodriguez Deposition, Page 352, Line 7 through 11 (Exhibits I, J and K).)

Disputed but not material and irrelevant. This additional "fact," and the other "facts" plaintiff recites below, cite to quotations from plaintiff's counsel and deponents responding to leading questions in depositions, and consist of fragmentary statements containing conclusory opinions with no foundational information – they uniformly **lack any information as to who made any offensive comments, when, where, and in what context it occurred (at work or outside of work), and any information as to the**

1 basis for deponents' improper and
2 conclusory opinions such as
3 "inappropriate" "race-based"
4 "comments". As such, plaintiff's
5 purported "facts" recited herein are not
6 supported by the cited evidence. To
7 save space and avoid repetition in
8 responding to the remaining facts, the
9 statement:

10
11 "the evidence plaintiff cites does not
12 support this fact" or

13
14 "the evidence plaintiff cites is
15 insufficient to support this "fact" "

16
17 is used and repeated below to
18 reference the above explanation of
19 what evidence is missing to support
20 the proposed additional "fact."

21 The evidence plaintiff cites provides
22 no facts as to dates, who made the
23 comments, whether officers were on
24 duty, or what specific comments are
25 being referenced. Some cited evidence
26 is not attached to the opposition (Slor
27 depo. p. 25 is missing), and this
28 testimony is also subject to objections,

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111. Officer Kerry Schilf’s nickname in the Burbank Police Department is “HITLER.” (**Slor Deposition, Page 26, Lines 16 through 18 (Exhibit J).**)

112. Many race-based “jokes” at the Burbank Police Department were made at roll call, in front of numerous other officers and supervisors. (**Arnold Deposition, Page 51, lines 8 through 18 (Exhibit A).**)

113. Plaintiff, Jamal Childs complained to Officer Karagiosian of offensive race based comments made in front of “high ranking officials in our Department, and they think it’s funny.” (**Karagiosian Deposition, Page**

set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections

Disputed but not material and irrelevant. The evidence plaintiff cites is insufficient to support this “fact”. Arnold left the Department in 2006, and has no knowledge of what occurred during any relevant time period. The evidence provides no foundational facts as to dates, or what specific comments are being referenced. It provides no foundation, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections

Disputed but not material and irrelevant. Childs admitted the offensive conduct stopped over one year before his filed his DFEH

1 **170, Line 2 through 6; Childs Declaration (Exhibit**
2 **E).)**

complaint The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections

7 114. Plaintiff Jamal Childs tries to avoid officers in
8 the Burbank Police Department who have made
9 inappropriate race-based epithets or slurs. **(Childs**
10 **Deposition, Page 135, Line 24 through Page 136, Line**
11 **1; Childs Declaration (Exhibit B).)**

Disputed but not material and irrelevant. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections

14 115. Omar Rodriguez complained to Lieutenant
15 Murphy about race-based discriminatory statements
16 made on a “grease board.” **(Murphy Deposition, Page**
17 **62, line 3 through Page 63, line 4 (Exhibit F).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections

22 116. Plaintiff Jamal Childs reported the incidents of
23 discrimination and harassment set forth herein, to the
24 Burbank Police Department investigator, Irma Moisa
25 Rodriguez, but nothing was ever done. **(Childs**
26 **Deposition, Page 141, Line 23 through Page 142, Line**
27 **13; Childs Declaration (Exhibit B).)**

Disputed - the evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for the conclusory statements, including any time frame or other supporting details. It is also hearsay, and is subject to objections, set forth in the defendant’s

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117. Other officers in the Burbank Police Department have complained to Plaintiff Jamal Childs that they hear “too many racial comments.” (**Childs Deposition, Page 189, Lines 4 through 16 (Exhibit B).**)

118. Burbank Police Officers also told jokes about those of Mexican-Armenian heritage. (**Arnold Deposition, Page 49, line 25 through Page 50, Line 3; Dahlia Deposition, Page 129, Lines 6 through 17; Murphy Deposition, Page 82, lines 13 through 20; Arnold Deposition, Page 59, lines 15 through 18. Omar Rodriguez Deposition, Page 369, Line 10 through 17. Omar Rodriguez Deposition, Page 374, Line 23 through Page 375, Line 2 (Exhibits A, C, E and I).**)

119. As a Burbank Police Officer, Dan Arnold was “uncomfortable because of racial remarks, attitudes towards different races, constant barrage of racial humor (and) the lack of integrity . . .” (**Arnold Deposition, Page 36, lines 19 through 24 (Exhibit A).**)

evidentiary objections.

Disputed but not material and irrelevant as to time. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, including any time frame, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections. Arnold left the Department in 2006, and has no knowledge of what occurred during any relevant time period.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, including any time frame, is hearsay, and is subject to objections, set forth in

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120. Minorities were treated differently than Caucasians based on race by Burbank Police Officers. If you were a white male, “the chance of talking to you were slim to none. If you were a minority walking through the City at night, you were getting talked to every time.” **(Arnold Deposition, Page 75, line 6 through Page 76, Line 1 (Exhibit A).)**

121. There is a huge bias against minorities in the City of Burbank. **Arnold Deposition, Page 75, line 5 through Page 76, Line 1 (Exhibit C).**

the defendant’s evidentiary objections. Arnold left the Department in 2006, and has no knowledge of what occurred during any relevant time period.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It discusses non-officers and provides no foundation, including any time frame, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections. Arnold left the Department in 2006, and has no knowledge of what occurred during any relevant time period. (See Miller Reply declaration.)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, including any time frame, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections. Arnold left the Department in 2006,

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122. Detective Dahlia testified that inappropriate race based language has never been acceptable, but all Burbank Police Officers he knows have been guilty of it. **(Dahlia Deposition, Page 140, line 23, through Page 141, line 9 (Exhibit C).)**

123. Detective Dahlia admits to using the language described in his Deposition (and as set forth in this separate statement) while on duty as a police officer “as just about everybody else on the Police Department” but “its not used in a manner of– to discriminate that person directly.” **(Dahlia Deposition, Page 140, line 23, through Page 141, line 25; Dahlia Deposition, Page 146, Line 11, through Page 147, line 4 (Exhibit H).)**

124. Detective Dahlia has heard these terms used by the majority of the people in the Department “and that’s

and has no knowledge of what occurred during any relevant time period. (See Savitt Reply declaration, ¶¶ 2-3.)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, including any time frame, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation, including any time frame, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections. Arnold left the Department in 2006, and has no knowledge of what occurred during any relevant time period.

Disputed but not material and irrelevant to Childs. The evidence

1 the honest truth, whether you accept it or not, they are
2 not used in the context of personally attacking a person.”
3 “It’s a ugly business that we do. It’s a stress relief
4 sometimes. Is it right? No it’s not. Absolutely not. But
5 I have used those words and so have other people.”
6 **(Dahlia Deposition, Page 147, Line 22, through Page**
7 **148, Line 7 (Exhibit H).)**

8
9 125. Former Mayor of the City of Burbank, Marsha
10 Ramos, whose tenure ended in April 30, 2009, had
11 knowledge of racial issues and bias within the Burbank
12 Police Department during her tenure. **(Deposition of**
13 **Former Mayor of the City of Burbank, Marsha**
14 **Ramos, Page 12, Lines 2 through 5 and Page 15,**
15 **Lines 13 through 19 (Exhibit H).)**

16
17
18 126. In the Fall, 2008, an anonymous letter was sent
19 to the Burbank City Counsel describing problems of
20 racism and retaliation within the Burbank Police
21 Department. **(Deposition of Former Mayor of the City**
22 **of Burbank, Marsha Ramos, Page 16, Line 23**
23 **through Page 17, Lines 6 (Exhibit H).)**

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27 127. The City Attorney’s office advised the City
28 Counsel not to discuss or otherwise pursue any matters

plaintiff cites is insufficient to support
this “fact”. It provides no foundation,
including any time frame, is hearsay,
and is subject to objections, set forth in
the defendant’s evidentiary objections.

Disputed but not material and
irrelevant to Childs. The evidence
plaintiff cites is insufficient to support
this “fact”. It provides no foundation,
including any time frame, is hearsay,
and is subject to objections, set forth in
the defendant’s evidentiary objections.

Disputed but not material and
irrelevant to Childs. The evidence
plaintiff cites is insufficient to support
this “fact”. It provides no foundation
for the conclusory comment, is
hearsay, and is subject to objections,
set forth in the defendant’s evidentiary
objections.

Disputed but not material and
irrelevant to Childs. The evidence

1 listed in the anonymous letter, for fear of liability. The
2 anonymous letter contained allegations of discrimination
3 and inappropriate treatment of police officers. There
4 were also references to inappropriate behavior of
5 supervisors and commanding officers within the
6 Department that went unreported. Certain Burbank
7 Police Officers were "cited as using racial epithets."
8 **(Deposition of Former Mayor of the City of Burbank,**
9 **Marsha Ramos, Page 17, Line 20 through Page 18,**
10 **Line 5; Deposition of Former Mayor of the City of**
11 **Burbank, Marsha Ramos, Page 20, Lines 14 through**
12 **24 (Exhibit H).)**

13
14 128. Prior to her leaving office, then Mayor Marsha
15 Ramos told City Manager, Mike Flad that if matters
16 were not resolved within the Police Department soon,
17 "the Department will probably fall apart." **(Deposition**
18 **of Former Mayor of the City of Burbank, Marsha**
19 **Ramos, Page 32, Line 16 through Page 33, Line 11**
20 **(Exhibit H).)**

21
22 129. There's a culture within the City of Burbank, for
23 all Burbank employees called the "code." Within the
24 code you never say it out loud "is it because you're
25 Black?" "You don't say that out loud, you just don't."
26 **(Deposition of Former Mayor of the City of Burbank,**
27 **Marsha Ramos, Page 43, Line 2 through Page 44,**
28 **Line 3 (Exhibit H).)**

plaintiff cites is insufficient to support
this "fact", which mischaracterizes the
cited testimony. It provides no
foundation for the conclusory
comment, is hearsay, and is subject to
objections, set forth in the defendant's
evidentiary objections.

Disputed but not material and
irrelevant to Childs. The evidence
plaintiff cites is insufficient to support
this fact. It provides no foundation for
the conclusory comment, is hearsay,
and is subject to objections, set forth in
the defendant's evidentiary objections.

Disputed but not material and
irrelevant to Childs. The evidence
plaintiff cites is insufficient to support
this "fact". It provides no foundation
for the conclusory comment, is
hearsay, and is subject to objections,
set forth in the defendant's evidentiary

objections.

130. Marsha Ramos, during her tenure as Burbank Mayor, was also aware of issues of sexual harassment and gender-bias within the Burbank Police Department. **(Deposition of Former Mayor of the City of Burbank, Marsha Ramos, Page 59, Line 21 through Page 60, Line 11; Page 60, Line 24 through Page 61, Line 1; Page 61, Lines 5 through 11 (Exhibit H).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for the conclusions, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections.

131. Ms. Nahabedian was informed when she arrived at the Burbank Police Department that there existed issues of discrimination and harassment. **(Nahabedian Deposition, Page 19, Line 24 through Page 20, Line 13 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites does not support this “fact”. It provides no foundation for the conclusions, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections.

132. At the time Ms. Nahabedian was hired, she was informed that there were investigations into “race-based issues” in the Department. **(Nahabedian Deposition, Page 20, Lines 15 through 21 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time or the conclusions, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections.

133. Ms. Nahabedian had been informed of investigations in the Burbank Police Department based

Disputed but not material and irrelevant to Childs. The evidence

1 upon race, ethnicity and gender. (**Nahabedian**
2 **Deposition, Page 37, Lines 21 through 24 (Exhibit**
3 **G).)**

plaintiff cites is insufficient to support this “fact”. It provides no foundation for time or the conclusions, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections.

8 134. Ms. Nahabedian informed then Chief Tim Stehr
9 that she believed that the Burbank Police Department
10 had a problem with its attitudes towards separate races.
11 (**Nahabedian Deposition, Page 59, Line 22 through**
12 **Page 60, Line 3 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time or the conclusions, is hearsay, and is subject to objections, set forth in the defendant’s evidentiary objections.

16 135. Comments made to Ms. Nahabedian during the
17 training she performed led her to believe that racial
18 intolerance was occurring within the Burbank Police
19 Department. (**Nahabedian Deposition, Page 62, Lines**
20 **1 through 12 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

25 136. As many as twenty different Burbank Police
26 Officers regularly use the term “ZOG” to refer to Black
27 people. (**Slor Deposition, Page 28, Lines 8 through**
28 **11; Dahlia Deposition, Page 121, Line 7 through Page**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation

1 **122, Line 2 (Exhibit J).)**

for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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6 137. The term "ZOG" is a racial term describing any
7 minority. It is used by white supremacist groups to call
8 minority groups a hateful term. **(Omar Rodriguez**
9 **Deposition, Page 367, Line 18 through Page 368, Line**
10 **12. Omar Rodriguez Deposition, Page 376, Line 13**
11 **through Page 377, Line 7 (Exhibit I).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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15 138. Burbank Police Officers have called African-
16 Americans "Black Mother Fuckers." **(Dahlia**
17 **Deposition, Page 123, Lines 5 through 13 (Exhibit**
18 **C).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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24 139. Many Caucasian Burbank Police Officers
25 regularly refer to Blacks as "Niggers." Detective Dahlia
26 has personally used the term "Nigger" to refer to black
27 people while he was working at the Department.
28 **(Dahlia Deposition, Page 123, Lines 23 through 25;**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for

1 **Dahlia Deposition, Page 131, Lines 6 through 9;**
2 **Dahlia Deposition, Page 145, lines 19 through 23;**
3 **Murphy Deposition, Page 84, lines 8 through 14**
4 **(Exhibit C and F).)**

5
6 140. In November 2008, in front of assembled group
7 of Lieutenants, Captains, the Deputy Chief, and high
8 ranking civilian employees, then Chief, Tim Stehr
9 opined that he could “remember a time when they would
10 say ‘nigger’ at roll calls.” **(Murphy Deposition, Page**
11 **54, line 7 through 19 (Exhibit F).)**

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16 141. Plaintiff Jamal Childs heard from various police
17 officers that then Chief Tim Stehr made the comment “I
18 remember a time when you could say the word ‘nigger’
19 around here.” **(Childs Deposition, Page 110, Line 5**
20 **through 22 (Exhibit B).)**

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26 142. Then Chief Stehr had made other inappropriate
27 race-based jokes at the Burbank Police Department.
28 **(Valento Deposition, Page 56, Lines 4 through 19**

Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections. (See Undisputed Fact 38, Childs depo. p. 108:3- p. 109:19; p. 158:8-21; Exh. A, FAC p. 10:19-22, ¶ 19 (e).)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections. (See Undisputed Fact 38, Childs depo. p. 108:3- p. 109:19; p. 158:8-21; Exh. A, FAC p. 10:19-22, ¶ 19 (e).)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support

1 **(Exhibit K.)**

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7 143. The word “Nigger” was used by Burbank Police
8 Officers just like “common conversation.” **(Arnold**
9 **Deposition, Page 37, lines 19 through 21 (Exhibit A).)**

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16 144. African Americans have been referred to as
17 “Niggers” by Burbank Police Officers. **(Omar**
18 **Rodriguez Deposition, Page 374, Line 23 through**
19 **Page 375, Line 2. Omar Rodriguez Deposition, Page**
20 **376, Line 13 through Page 377, Line 3. Guillen-**
21 **Gomez Deposition, Page 670, Line 22 through Page**
22 **671, Line 25 (Exhibit D and I).)**

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25 145. Officers were discussing an African-American
26 woman who had been seen in the South end of Burbank.
27 In front of the assembled officers at roll call, including
28 Plaintiff Jamal Childs, one officer called out “what’s she

this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation

1 doing up there, there ain't no fried chicken stores up
2 there.” (Arnold Deposition, Page 39, line 6 through
3 Page 41, Line 9 (Exhibit A).)

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6 146. In a conversation referring to a male, black
7 suspect, one officer commented “we should go check
8 Popeye’s Chicken” (Karagiosian Deposition, Page 277,
9 Line 9 through 22; Omar Rodriguez Deposition,
10 Page 23, Line 2 through 15 (Exhibit E and I).)

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15 147. The following race-based “joke” was told by
16 Burbank Police Officers: “What do you call a black man
17 sitting in a tree with a bunch of monkeys?” The
18 punchline was “Branch Manager.” (Arnold Deposition,
19 Page 49, lines 14 through 16 (Exhibit A).)

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24 148. Another race-based “joke” told by Burbank
25 Police Officers was: “What do you call 1,000 niggers at
26 the bottom of the ocean? Answer: A good start.”
27 (Arnold Deposition, Page 49, lines 17 through 19
28 (Exhibit A).)

for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also

hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

149. Another race-based "joke" that was told by Burbank Police Officers was: "A football field of niggers buried up to their necks? Afro-Turf." (**Arnold Deposition, Page 49, lines 20 through 21 (Exhibit A).**)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

150. Burbank Police Officers have referred to Black individuals as "Miate." (**Dahlia Deposition, Page 122, Line 8 through Page 123, Line 4 (Exhibit C).**)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

151. Officers at the Burbank Police Department have referred to Black people as "Sambo." (**Arnold Deposition, Page 53, line 20 through Page 54, Line 2 (Exhibit A).**)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set

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152. Burbank Police Officers have referred to Black people as “Porch Monkeys.” (**Arnold Deposition, Page 53, line 20 through Page 54, Line 2 (Exhibit A).**)

153. Burbank Police Officers would refer to mixed race individuals as “half-breeds.” (**Arnold Deposition, Page 72, lines 4 through 8 (Exhibit A).**)

154. In approximately 2003, a black female police officer complained to then, City Council member Marsha Ramos that there is “no room for promotion” for Blacks or females within the Burbank Police Department. (**Deposition of Former Mayor of the City of Burbank, Marsha Ramos, Page 19, Lines 6 through 15 (Exhibit H).**)

forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary

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155. When Nahabedian was hired, she was informed by then Chief Stehr that there were problems with race-based language in the Department including, without limitation, the “N” word. **(Nahabedian Deposition, Page 30, Line 19 through Page 31, Line 5 (Exhibit G).)**

156. Officers have made inappropriate comments about Plaintiff Jamal Childs’ wife who is Caucasian **(Childs Deposition, Page 40, Line 19 through Page 41, Line 13; Page 47, Lines 17 through 25; Childs Declaration(Exhibit B and Declaration of Jamal Childs).)**

157. Plaintiff Childs believes that he was treated differently than Caucasian officers because of his race by a supervisor, Sergeant/Lieutenant Ryburn. **(Childs Deposition, Page 45, Lines 20 through 23 (Exhibit B and Declaration of Jamal Childs).)**

objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections. See Undisputed Fact 31.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections. See Undisputed Fact 31.

1 158. One of Plaintiff Jamal Childs' supervisors,
2 Sergeant Darren Ryburn, said "I guess it's true, once you
3 go black, you never go back." (**Childs Deposition, Page**
4 **51, Lines 2 through 11 (Exhibit B and Declaration of**
5 **Jamal Childs).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections. See Undisputed Fact 31.

10 159. When Plaintiff Jamal Childs assisted in the
11 service of a warrant on the famous rapper, Snoop Dog,
12 Officer Aaron Kendrick said, "Why is Jamal here? Do
13 we need him for translation?" (**Childs Deposition, Page**
14 **69, Line 19 through Page 70, Line 4 (Exhibit B and**
15 **Declaration of Jamal Childs).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections. See Undisputed Fact 35.

19 160. After passing by an open doorway of an office in
20 the Burbank Police Department, Jamal Childs heard
21 unknown officers state "I remember when we didn't hire
22 people like him." (**Childs Deposition, Page 69, Line 19**
23 **through Page 70, Line 4 (Exhibit B and Declaration**
24 **of Jamal Childs).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections. See Undisputed Fact 39.

28 161. Upon entering a room one time, Plaintiff Childs

Disputed but not material and irrelevant

1 learned that Officer Jay Cutler said “who let the black
2 guy in?” Everyone just thought it was the funniest thing
3 ever. **(Childs Deposition, Page 115, Lines 14 through**
4 **19 (Exhibit B and Declaration of Jamal Childs).)**

9 162. One of Plaintiff Jamal Childs supervisors,
10 Sergeant Calicchio, after taking an arrest report, said
11 “who in their right mind would give a fucking black guy
12 \$30,000?” **(Childs Deposition, Page 121, Line 3**
13 **through Page 122, Line 16 (Exhibit B and**
14 **Declaration of Jamal Childs).)**

18 163. Burbank Police Officers have referred to
19 Armenian individuals as “Armo’s.” **(Slor Deposition,**
20 **Page 31, Line 19 through Page 32, Line 4; Dahlia**
21 **Deposition, Page 135, Lines 5 through 15.**
22 **Karagiosian Deposition, Page 300, Line 21 through**
23 **25. Omar Rodriguez Deposition, Page 377, Line 2**
24 **through 13. Omar Rodriguez Deposition, Page 384,**
25 **Line 23 through Page, 385 Line 12 (Exhibits J, E, and**
26 **I).)**

28 164. Burbank Police Officers have referred to

to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections. See Undisputed Fact 39 b.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections. See Undisputed Fact 41 a.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant

1 Armenian individuals as “Towelheads.” (Slor
2 **Deposition, Page 31, Line 19 through Page 32, Line 4;**
3 **Dahlia Deposition, Page 132, Line 6 through Page**
4 **133, Line 2; Dahlia Deposition, Page 133, Lines 20**
5 **through 22; Arnold Deposition, Page 57, lines 2**
6 **through 5 (Exhibits C, J, and A).)**

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9 165. Burbank Police Officers would call Armenians
10 “towels.” (Karagiosian Deposition, Page 169, Line 19
11 **through Page 170, Line 1. Karagiosian Deposition,**
12 **Page 302, Line 16 through 18 (Exhibits E).)**

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18 166. Plaintiff Jamal Childs has heard officer Kendrick
19 call Officer Steve Karagiosian a “towel” and “stupid
20 towel” on numerous occasions. (Childs Deposition,
21 **Page 62, Line 21 through Page 63, Line 4; Page 119,**
22 **Lines 2 through 19 (Exhibit B and Declaration of**
23 **Jamal Childs).)**

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27 167. Many Burbank Police Officers have referred to
28 Armenian individuals as “Fucking Armenians.” (Dahlia

to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites

1 **Deposition, Page 132, Line 6 through Page 133, Line**
2 **2; Dahlia Deposition, Page 134, Lines 14 through 23**
3 **(Exhibit C.)**
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8 168. Burbank Police Officers would make fun of
9 Armenians by speaking in a heavy Armenian accent.
10 **(Arnold Deposition, Page 67, lines 3 through 14.**
11 **Karagiosian Deposition, Page 42, Line 16 through**
12 **Page 43, Line 15 (Exhibits A and E).)**
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17 169. Officer Aaron Kendrick pointed a gun at Officer
18 Steve Karagiosian and threatened to “put one in your ten
19 ring before you can get out of your chair.” **(Karagiosian**
20 **Deposition, Page 145, Line 16 through Page 146, Line 7.**
21 **Childs Deposition, Page 81, Line 21 through Page 82,**
22 **Line 16 (Exhibit E and B).)**
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26 170. Offensive race based slurs against Armenians
27 were written on a white board in the Detective’s Office
28 at the Burbank Police Department. **(Karagiosian**

is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It

Deposition, Page 92, Line 20 through Page 93, Line 4.
**Omar Rodriguez Deposition, Page 339, Line 4
through Page 340, Line 11 (Exhibits E and I.)**

provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

171. Burbank Police Officers have referred to Hispanic individuals as "Wetbacks."
(Dahlia Deposition, Page 129, Lines 6 through 17; Murphy Deposition, Page 82, lines 13 through 20; Arnold Deposition, Page 59, lines 15 through 18. Omar Rodriguez Deposition, Page 369, Line 10 through 17. Omar Rodriguez Deposition, Page 374, Line 23 through Page 375, Line 2 (Exhibits C, E, A and I.)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

172. As many as twenty Burbank Police Officers have referred to Hispanic individuals as "Mojados, Moes or Mopes" within the last year. **(Dahlia Deposition, Page 129, Line 24 through Page 131, Line 6 (Exhibit C).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

173. Burbank Police Officers have referred to Latinos as "Moes." **(Karagiosian Deposition, Page 336, Line 18 through 19 (Exhibit E).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It

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174. Burbank Police Officers have referred to Hispanic individuals as “Spics.” (**Dahlia Deposition, Page 131, Lines 10 through 12 (Exhibit C.)**)

175. Burbank Police Officers have called Hispanic individuals “Julios.” (**Dahlia Deposition, Page 197, lines 18 through 25. Karagiosian Deposition, Page 303, Line 13 through 15. Omar Rodriguez Deposition, Page 369, Line 10 through 17 (Exhibit C, E and I.)**)

176. Burbank Police Officers have referred to Hispanic individuals as “Beaners.” (**Dahlia Deposition, Page 201, lines 10 through 19; Murphy Deposition, Page 82, lines 24 through Page 83, line 3**

provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the

1 (Exhibit C and F).)

conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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6 177. Burbank Police Officers have referred to
7 Hispanic individuals as "Fucking Mexicans." (Dahlia
8 Deposition, Page 203, lines 9 through 12 (Exhibit C).
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Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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15 178. Burbank Police Officers have referred to
16 Hispanic individuals as "Taco Vendor". (Murphy
17 Deposition, Page 83, lines 5 through 9 (Exhibit F).)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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24 179. Hispanics have been referred to by Burbank
25 Police Officers as "Gardeners." (Karagiosian
26 Deposition, Page 305, Line 10 through 12 (Exhibit E).)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also

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180. Hispanic individuals were referred to by Burbank Police Officers as “Paco.” (**Arnold Deposition, Page 57, lines 10 through 20 (Exhibit A).**)

181. Burbank Police Officers referred to Hispanic individuals as “Mexicans,” regardless of their country of origin. (**Dahlia Deposition, Page 202, lines 9 through 24; Arnold Deposition, Page 53, lines 1 through 14 (Exhibit C and A).**)

182. The term “Mexican” is used interchangeably by Burbank Police Officers with the terms “Latino” or “Hispanic.” (**Dahlia Deposition, Page 202, lines 9 through 24; Arnold Deposition, Page 53, lines 1 through 8 (Exhibit C and A).**)

hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set

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183. Detective Dahlia has referred to Latinos as “Mexicans,” without knowing their country of origin. **(Dahlia Deposition, Page 202, line 25 through 203, line 8 (Exhibit C).)**

184. One of the race-based “jokes” told by Burbank Police Officers was as follows: “How come there were only 2,000 Mexicans at the Alamo?” The punchline was: “There was only one car.” **(Arnold Deposition, Page 50, lines 20 through 25 (Exhibit A).)**

185. Hispanic suspects were booked in to the records at the Burbank Police Department as “Juan Doe.” **(Arnold Deposition, Page 68, lines 16 through 20 (Exhibit A and S).)**

forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary

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186. Burbank Police Officers have stated “Why do we have Mexicans in our city? Look at the places they live. They fucked that up.” **(Karagiosian Deposition, Page 287, Line 1 through 11 (Exhibit E).)**

187. Burbank Police Officers refer to Asian people with the language “me fucky-sucky.” **Arnold Deposition, Page 80, lines 9 through 15 (Exhibit A).**

188. Burbank Police Officers would joke about Asian people by saying things in an Asian accent like “Hey, Joe,” “you like good time, Joe?” The word “Joe” was used a lot. **Arnold Deposition, Page 80, lines 22 through 25 (Exhibit A).**

objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

1 189. Plaintiff Cindy Guillen-Gomez has been referred
2 to by Burbank Police Officers as "Bitch." **Slor**
3 **Deposition, Page 49, Lines 11 through 23 (Exhibit J).**
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Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

10 190. Burbank Police Officers have referred to women
11 as "dykes." **(Dahlia Deposition, Page 198, lines 9**
12 **through 16; Murphy Deposition, Page 85, lines 13**
13 **through 19 (Exhibit C and F).)**
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Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

19 191. Burbank Police Officers would opine that
20 "women had no business being on the police force."
21 **(Arnold Deposition, Page 69, lines 15 through 18**
22 **(Exhibit A).)**
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Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

28 192. Plaintiff Cindy Guillen-Gomez complained that

Disputed but not material and irrelevant

1 females were being referred to by Burbank Police
2 Officers as “Tuna Boats.” (**Arnold Deposition, Page**
3 **91, lines 5 through 10 (Exhibit A).**)

to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

9 193. Plaintiff Cindy Guillen-Gomez complained that
10 females were being referred to by Burbank Police
11 Officers as “Split Tails.” (**Arnold Deposition, Page 91,**
12 **lines 5 through 10 (Exhibit A).**)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

18 194. Police Officers at the Burbank Police Department
19 have used the term “cunt” to refer to women. (**Guillen-**
20 **Gomez Deposition, Page 668, Line 25 through Page**
21 **669, Line 4 (Exhibit D).**)

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

27 195. Certain Burbank Police Officers have called
28 women “whores.” (**Guillen-Gomez Deposition, Page**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites

1 **669, Line 19 through 21 (Exhibit D).)**

is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

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8 196. Plaintiff Cindy Guillen-Gomez was threatened
9 that if she wouldn’t be quiet she would be “fucked in the
10 ass.” **(Guillen-Gomez Deposition, Page 680, Line 24
11 through 25 (Exhibit D).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

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17 197. One example of sexual harassment, Ms.
18 Nahabedian discovered was naked pornographic pictures
19 on a certain Burbank Police Officer’s locker.
20 **(Nahabedian Deposition, Page 62, Line 14 through
21 Page 63, Line 4 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

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26 198. Burbank Police Officers have referred to men as
27 “homos.” **(Dahlia Deposition, Page 199, lines 19
28 through 21. Guillen-Gomez Deposition, Page 670,**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It

1 **Line 8 through 10 (Exhibit C and D).)**

provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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7 199. Lieutenant Murphy has heard people being
8 referred to as "Fags" by Burbank Police Officers.
9 **(Murphy Deposition, Page 85, lines 5 through 11**
10 **(Exhibit F).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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16 200. Burbank Police Officers would refer to
17 individuals as "fag" or "faggot." **(Arnold Deposition,**
18 **Page 60, line 23 through Page 61, Line 1. Guillen-**
19 **Gomez Deposition, Page 670, Line 8 through 10**
20 **(Exhibit A and D).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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25 201. Burbank Police Officers have engaged in racial
26 profiling, that is identifying and stopping people based
27 on their race in order to search for evidence of a crime.
28 **(Slor Deposition, Page 53, Lines 5 through 14**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the

1 **(Exhibit J.)**

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6 202. The minorities which are subjected to race-based
7 profiling at the Burbank Police Department are Hispanic,
8 Black and Armenian. **(Slor Deposition, Page 53, Lines**
9 **16 through 21 (Exhibit J.)**

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15 203. One Burbank Police Officer mocked a black
16 youth, who had been pulled over by Burbank Police
17 Officers approximately five times in his evening trip
18 through Burbank on his bicycle, saying in an “ebonics”
19 accent, “well, then don’t ride your ass through Burbank
20 at night.” **(Arnold Deposition, Page 44, line 13**
21 **through Page 46, Line 6 (Exhibit A.)**

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24 204. Burbank Police Officers target Armenian citizens
25 for traffic stops based on race. **(Slor Deposition, Page**
26 **32, Lines 8 through 12 (Exhibit J.)**

conclusions, or for Childs. It is also
hearsay, and subject to objections, set
forth in the defendant’s evidentiary
objections.

Disputed but not material and irrelevant
to Childs. The evidence plaintiff cites
is insufficient to support this “fact”. It
provides no foundation for time, for the
conclusions, or for Childs. It is also
hearsay, and subject to objections, set
forth in the defendant’s evidentiary
objections.

Disputed but not material and irrelevant
to Childs. The evidence plaintiff cites
is insufficient to support this “fact”. It
provides no foundation for time, for the
conclusions, or for Childs. It is also
hearsay, and subject to objections, set
forth in the defendant’s evidentiary
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to Childs. The evidence plaintiff cites
is insufficient to support this “fact”. It
provides no foundation for time, for the
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205. One way the Burbank Police Department would profile Armenians, was to pull over high-end expensive cars because they lacked either front license plates or had tinted windows (minor violations) simply because they were being driven by Armenians. **(Slor Deposition, Page 56, Lines 10 through 20 (Exhibit J).)**

206. Burbank Police Officers would wait near Armenian clubs and wait for individuals of Armenian descent to leave the club so they could affect traffic stops, and then they would joke about it in an “Armenian type dialect.” **(Arnold Deposition, Page 75, line 6 through Page 76, Line 1 (Exhibit A).)**

207. Burbank Police Department engages in race based profiling in police stops. **(Arnold Deposition, Page 79, lines 4 through 8. Karagiosian Deposition, Page 307, Line 22 through 25 (Exhibit A and E).)**

hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set

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208. Lt. Omar Rodriguez, since approximately January 2007, was responsible to recruit and hire officers for the Burbank Police Dept. Lt. Rodriguez became aware that the Detectives who had been conducting the background investigations were inappropriately disqualifying minorities and females from the background process. **(Omar Rodriguez Deposition, Page 225, Line 23 through Page 226, Line 6. Page 235, Line 3 through 8. Page 239, Line 13 through Page 240, Line 6 (Exhibit I).)**

209. Beginning in approximately December 2006, through January 2007, Lt. Rodriguez began getting complaints from officers that they had been subjected to unfair treatment and race-based comments. Lt. Rodriguez continued to receive these complaints through April 2009. **(Omar Rodriguez Deposition, Page 248, Line 23 through Page 249, Line 12 (Exhibit I).)**

210. Lt. Omar Rodriguez reported complaints of patrol officers of unfair treatment, harassment and discrimination to then Chief, Tim Stehr on more than a dozen occasions, several times in writing. **(Omar Rodriguez Deposition, Page 319, Line 9 through Page**

forth in the defendant's evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also

1 **320, Line 14 (Exhibit I).)**

hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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5 211. On Easter Sunday, 2009, Omar Rodriguez
6 complained to then Mayor Marsha Ramos of problems
7 within the Department including, without limitation,
8 discriminatory hiring practices. **(Deposition of Former**
9 **Mayor of the City of Burbank, Marsha Ramos, Page**
10 **23, Line 22 through Page 24, Line 24 (Exhibit H).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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14 212. On Easter Sunday, 2009, Omar Rodriguez
15 complained to then Mayor Marsha Ramos that Bill
16 Taylor (Deputy Chief) was going to be unfairly demoted
17 and blamed for problems within the Department in
18 exchange for favors to certain officers on the Burbank
19 Police Officers' Association. **(Deposition of Former**
20 **Mayor of the City of Burbank, Marsha Ramos, Page**
21 **25, Line 3 through Page 26, Line 1; Page 26, Lines 2**
22 **through 10 (Exhibit H).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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24 213. Then Deputy Chief Bill Taylor complained to
25 then Mayor Marsha Ramos that the police department
26 had issues of discrimination and retaliation and "it's an
27 environment where people are fearful." **(Deposition of**
28 **Former Mayor of the City of Burbank, Marsha**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also

1 **Ramos, Page 37, Lines 2 through 12 (Exhibit H).)**

hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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5 214. On Easter Sunday, 2009, Omar Rodriguez
6 complained to then Mayor Marsha Ramos that he was
7 afraid of retaliation within the Burbank Police
8 Department. **(Deposition of Former Mayor of the City**
9 **of Burbank, Marsha Ramos, Page 40, Line 16**
10 **through Page 41, Line 3 (Exhibit H).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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14 215. In December, 2009, after former Mayor Marsha
15 Ramos left office, she met with City Manager, Mike
16 Flad at lunch. At that time, Mike Flad informed her that
17 the City's internal investigations, along with the
18 Sheriff's Department and FBI investigations would wrap
19 up in the first quarter of 2009, and "there were going to
20 be a lot of terminations, top to bottom," regardless of the
21 results of the investigations. **(Deposition of Former**
22 **Mayor of the City of Burbank, Marsha Ramos, Page**
23 **51, Line 16 through Page 52, Line 23 (Exhibit H).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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25 216. At least one Burbank Police Officer told Ms.
26 Nahabedian that they were afraid to speak out of the
27 problems within the Burbank Police Department.
28 **(Nahabedian Deposition, Page 64, Line 20 through**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the

1 **Page 65, Line 1 (Exhibit G).)**

conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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6 217. There was a widespread and very big problem
7 within the Burbank Police Department concerning the
8 Department's failure to respond to complaints from
9 officers and with retaliation. (**Valento Deposition, Page**
10 **25, Line 25 through Page 26, Line 21 (Exhibit K).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections. Childs offers no argument opposing the motion's retaliation issue.

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16 218. Burbank Police Officers are subjected to
17 retaliation for standing on their rights. (**Valento**
18 **Deposition, Page 28, Line 2 through Page 29, Line 9**
19 **(Exhibit K).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections. Childs offers no argument opposing the motion's retaliation issue.

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26 219. Then Chief Tim Stehr would retaliate against
27 Burbank Police Officers who complained by changing
28 their performance reviews. (**Valento Deposition, Page**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It

1 **29, Lines 19 through 25 (Exhibit K).)**

provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections. Childs offers no argument opposing the motion's retaliation issue.

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8 220. Nayari Nahabedian was hired by the City of
9 Burbank to provide diversity training to the Burbank
10 Police Department and its Officers **(Nahabedian**
11 **Deposition, Page 16, Lines 2 through 23 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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17 221. Detective Dahlia "did not think very highly" of
18 the diversity training provided by Nayari Nahabedian.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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26 222. Detective Dahlia thought that the diversity
27 training provided by Nayari Nahabedian was simply
28 "damage control." **(Dahlia Deposition, Page 149, lines**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It

1 **1 through 8 (Exhibit C).)**

provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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7 223. Nahabedian informed then Chief Stehr that one
8 four-hour training was unlikely to solve the
9 Department's problems. **(Nahabedian Deposition,**
10 **Page 16, Line 24 through Page 17, Line 14 (Exhibit**
11 **G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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16 224. At the time she was hired, then Chief Stehr
17 informed Ms. Nahabedian that the training was being
18 performed to "avoid liability." **(Nahabedian**
19 **Deposition, Page 25, Lines 7 through 23 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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25 225. Then Chief Stehr told Ms. Nahabedian that the
26 prior diversity training had occurred over ten years ago,
27 in or about 1997. **(Nahabedian Deposition, Page 26,**
28 **Lines 13 through 24 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the

conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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6 226. Many negative comments were made by Burbank
7 Police Department Officers following the training, which
8 negative comments referred to the training.
9 **(Nahabedian Deposition, Page 40, Lines 12 through**
10 **22 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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15 227. Many negative comments refer to the impression
16 that the diversity training was to "CYA" or "cover your
17 ass." **(Nahabedian Deposition, Page 42, Lines 3**
18 **through 11 (Exhibit G and R).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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25 228. Another common complaint of Burbank Police
26 Officers with regard to the diversity training was "they
27 should deal with those few people with a problem and
28 not have us all sit in training." **(Nahabedian**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the

1 **Deposition, Page 42, Lines 12 through 15 (Exhibit G**
2 **and R).)**

conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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7 229. Another common complaint was that minorities
8 played the "race card," when they didn't get promotions.
9 **(Nahabedian Deposition, Page 43, Lines 5 through**
10 **12; Page 46, Lines 9 through 19 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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16 230. Another common complaint of Burbank Police
17 Officers who attended the diversity training was "why do
18 we have to change the way we do things? If they came
19 to this country, we shouldn't have to learn about their
20 ways." **(Nahabedian Deposition, Page 43, Line 21**
21 **through Page 44, Line 3 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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25 231. Nahabedian was concerned by the overly large
26 number of Burbank Police Officers who expressed
27 concerns of the diversity training. **(Nahabedian**
28 **Deposition, Page 49, Lines 5 through 20 (Exhibit G).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the

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232. Many Burbank Police Officers told Ms. Nahabedian at the end of the diversity training that it was “a waste of time.” **(Nahabedian Deposition, Page 52, Lines 7 through 10 (Exhibit G).)**

233. Burbank Police Officers who attended the diversity training made jokes about the diversity training. **(Nahabedian Deposition, Page 54, Lines 2 through 8 (Exhibit G).)**

234. Nahabedian expressed to the Burbank Police Department that more training needed to be done to deal with diversity issues. **(Nahabedian Deposition, Page 55, Line 25 through Page 59, Line 8; Page 60, Lines 11 through 19; Page 60, Line 20 through Page 61,**

conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also

1 **Line 7 (Exhibit G.)**

hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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5 235. The diversity class could not get over their fear
6 of the administration. **((Exhibit O).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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14 236. At the time of the filing of the Complaint in this
15 action, the Burbank Police Department had four (4)
16 sworn African-American police officers, just over two
17 percent (2%). **(Dahlia Deposition, Page 205, Lines 4
18 through 20 (Exhibits C and N).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

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23 237. No African-American police officer has ever
24 received a promotion of any kind in the history of the
25 Burbank Police Department. **(Dahlia Deposition, Page
26 205, Lines 4 through 20 (Exhibits C and N).)**

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set

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238. As of year end 2009, twelve percent (12%) of all police officers employed at the Los Angeles Police Department (“LAPD”) were African-American. **((Exhibit O).)**

239. As of year end 2009, between twelve percent (12%) and eighteen percent (18%) of all police officers employed at the Los Angeles Police Department (“LAPD”) of rank Detective or higher were African-American. **((Exhibit O).)**

240. As of year end 2009, ten percent (10%) of all police officers employed at the Los Angeles Sheriff’s Department were African-American. **((Exhibit P).)**

forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary

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3 241. As of year end 2009, eighteen percent (18%) of
4 all police officers employed by the Pasadena Police
5 Department were African-American. **((Exhibit Q).)**
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12 242. Burbank Police Officer Supervisors discriminate
13 against minorities in terms of assignments and shift
14 selection. **(Karagiosian Deposition, Page 323, Line 6**
15 **through Page 325, Line 3 (Exhibit E).)**
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21 243. Plaintiff Jamal Childs was extremely upset and
22 severely affected by the Burbank Police Department's
23 refusal to take action in response to his complaints. "I
24 took it like a slap in the face." **(Childs Deposition,**
25 **Page 142, Line 3 through 13 (Exhibit B).)**
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objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

1 244. On October 5, 2009, Plaintiff Cindy Guillen-
2 Gomez filed a Memorandum of Complaint with the
3 Burbank Police Department **(Exhibit L)**.

Disputed but not material and irrelevant
to Childs. The evidence plaintiff cites
is insufficient to support this "fact". It
provides no foundation for the
conclusions, or for Childs. It is also
hearsay, and subject to objections, set
forth in the defendant's evidentiary
objections.

10 245. In her Memorandum of Complaint, Plaintiff
11 Cindy Guillen-Gomez claimed that she was "subjected
12 to several inappropriate comments made by Mrs. Scott,"
13 a City Attorney for the City of Burbank. **(Exhibit L)**.

Disputed but not material and irrelevant
to Childs. The evidence plaintiff cites
is insufficient to support this "fact". It
provides no foundation for the
conclusions, or for Childs. It is also
hearsay, and subject to objections, set
forth in the defendant's evidentiary
objections.

19 246. In her Memorandum of Complaint, Plaintiff
20 Cindy Guillen-Gomez claimed that City Attorney Scott
21 mentioned that "all of the present cases were 'BS'," and
22 that they "take all cases like this to Trial - at any costs."
23 **(Exhibit L)**.

Disputed but not material and irrelevant
to Childs. The evidence plaintiff cites
is insufficient to support this "fact". It
provides no foundation for the
conclusions, or for Childs. It is also
hearsay, and subject to objections, set
forth in the defendant's evidentiary
objections.

28 247. In Plaintiff Cindy Guillen-Gomez' Memorandum

Disputed but not material and irrelevant

1 of Complaint, she claims that City Attorney Julie Scott
2 stated “even if the jury sympathizes with Plaintiffs in
3 these cases, we will appeal and get them overturned.
4 Then the plaintiffs will be responsible for our legal
5 fees.” ((Exhibit L).)

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9 248. In her Memorandum of Complaint, Plaintiff
10 Cindy Guillen-Gomez stated that City Attorney Scott’s
11 statements made her feel “extremely uncomfortable and
12 embarrassed,” . . . “since I was the only one in the class
13 that had filed a lawsuit against the City and the Police
14 Department, specifically for sexual harassment,
15 discrimination and retaliation. It was obvious to me that
16 she was trying to intimidate me by making such threats
17 in public, and I felt that she was attempting to prevent
18 me from continuing with the litigation.” ((Exhibit L).)

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20 249. Many Burbank Police Officers have referred to
21 Armenian individuals as “Sandniggers.” (**Dahlia**
22 **Deposition, Page 132, Line 6 through Page 133, Line 2;**
23 **Arnold Deposition, Page 56, lines 21 through 23**
24 **(Exhibit C).)**

to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this “fact”. It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant’s evidentiary objections.

ISSUE NO. 2

WHETHER DEFENDANT CITY OF BURBANK VIOLATED THE POBRA

250. In the Declaration of Tim Stehr attached to Defendant's Reply to Plaintiff's Supplemental Opposition to Defendant's Order to Show Cause re Preliminary Injunction and Sealed Separate Statements of Documents in Dispute, filed on August 24, 2009, then-Chief Stehr repeatedly stated: "This document constitutes a confidential police personnel records (sic) for which only the Burbank Police Department can waive disclosure. However, the Burbank Police Department will waive its right to maintain the confidentiality of any Plaintiffs' personnel records on the condition that the plaintiff knowingly and voluntarily, after consultation with an attorney, waives any claim in the confidentiality of his/her personnel records. A copy of the Waiver which must be signed by the plaintiff is attached hereto as Exhibit 2." (Declaration of Tim Stehr, ¶¶ 18, 24, 25, 28, 29, 30, 32, 33, 35 and 36 (Exhibit T).)

Disputed but not material and irrelevant to Childs. It provides no foundation as to Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

251. The waiver attached to Stehr's declaration, which he insisted every Plaintiff sign, including Plaintiff Childs, provides that Plaintiffs would waive **all** confidentiality in their personnel records. The waiver attached to Stehr's declaration provides, in part: "2. I understand that by signing this 'Waiver of Personnel Records Confidentiality and Privilege,' I waive any claim of confidentiality and/or privilege to my personnel records or the information

Disputed but not material and irrelevant to Childs. The evidence plaintiff cites is insufficient to support this "fact". It provides no foundation for time, for the conclusions, or for Childs. It is also hearsay, and subject to objections, set forth in the defendant's evidentiary objections.

1 contained therein, and the City of Burbank and the
2 Burbank Police Department can no longer guarantee their
3 confidentiality or privilege.” **(Waiver of Personnel**
4 **Records Confidentiality and Privilege, Exhibit 2 to the**
5 **Declaration of Tim Stehr dated August 21, 2009, ¶2**
6 **(Exhibit T).)**

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10 252. On March 4, 2010, Plaintiff Childs filed a second
11 claim form with Defendant. **((Exhibit W).)**

Disputed but not material and irrelevant
to Childs. It provides no foundation for
the conclusions, or for Childs. It is also
hearsay, and subject to objections, set
forth in the defendant’s evidentiary
objections.

253. In the second claim form, Plaintiff Childs
alleged: "Between May, 2009, and the present, and
continuing, the City of Burbank and the Burbank
Police Department has violated (Plaintiff Child's)
rights under (POBRA). (Defendant) violated the
(POBRA) by refusing to allow (Plaintiff) to inspect
and copy his own personnel files. Further,
(Defendant has) improperly disclosed the
documents which (Plaintiff) was seeking to third
parties without authorization, among other things."

(Exhibit W).

DATED: March 12, 2010

BALLARD ROSENBERG GOLPER & SAVITT, LLP

By:


CHRISTINE T. HOEFFNER

Attorneys for Defendant

CITY OF BURBANK, including the Police Department of the
City of Burbank

Disputed but not material and irrelevant to
Childs. The evidence plaintiff cites is
insufficient to support the "facts" asserted in
the claim form. It provides no foundation
for time, for the conclusions, or for Childs.
It is also hearsay, and subject to objections,
set forth in the defendant's evidentiary
objections.